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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/548,314	09/07/2005	Ernst Faber	FABER S 12 PCT	6122
25889	7590	01/28/2008		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER EVANISKO, LESLIE J	
			ART UNIT 2854	PAPER NUMBER
			MAIL DATE 01/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/548,314

**Applicant(s)**

FABER, ERNST

**Examiner**

Leslie J. Evanisko

**Art Unit**

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Terminal Disclaimer**

1. The terminal disclaimer filed on November 5, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Application No. 10/548,745 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### **Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16 and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Petersen (US 6,892,637 B2).

With respect to claim 16, Petersen teaches an ink pad container 60 comprising a bottom 64 and side walls 66, 68, 70, 72 projecting away therefrom, wherein in use horizontally arranged recesses 71 are provided along a length of two lateral opposite side walls 70, 72 of the ink pad container and cooperate with continuous guiding and centering projections 104 in an insertion compartment of the stamp to define precise

guiding and centering of the ink pad container during its insertion. See, in particular, the embodiment of Figures 7-9 and column 6, lines 49-65.

With respect to claim 18, note the recesses 71 of Petersen are delimited by ledge projections on two opposite side walls 70, 72 of the ink pad container 60, as shown in Figure 9 in particular.

With respect to claims 19-21, note the ink pad container of Petersen includes a depression 102 in the bottom 64 that can broadly be considered a groove extending in the direction of insertion and delimited by an end wall on both ends in that the circular hole 102 is broadly a "groove" that extends in all directions and is surrounded by an end wall at all sides. Furthermore, it is noted that claims 16 and 18-21 are drawn to the ink pad container per se and not the combination of the ink pad container and self-inking stamp. Since Petersen teaches all of the structure as recited, it is broadly capable of performing the intended function of providing snapping engagement with a resilient retention element in an insertion compartment of a self-inking stamp and thereby meets the claim language as recited.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen (US 6,892,637 B2).

With respect to claim 17, Petersen teaches an ink pad container as recited with the exception of the recesses being provided on a rim of the two lateral opposite side walls that face away from the bottom. In particular, it is noted that the recesses of Petersen are provided in the middle of the side walls and not at a rim. However, it has been held that the mere rearrangement of parts such that the operation of the device is not modified is an obvious mechanical expedient. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). Therefore, it would have been obvious to one of ordinary skill in the art to provide the recesses of Petersen in any location along the side wall (such as at a rim area) as it would appear the device would operate equally well to guide the container into the stamp housing with the recesses located at any area of the side walls.

With respect to claim 22, Petersen teaches an ink pad container as recited with the exception of the depression being provided "centrally" in the bottom. Note the depressions 102 of Petersen are located towards two side regions and not necessarily in the center. However, it is again noted that it has been held that the mere rearrangement of parts such that the operation of the device is not modified is an obvious mechanical expedient. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). Therefore, it would have been obvious to one of ordinary skill in the art to provide the depression of Petersen in any location along the bottom (such as in the center) as it would appear the container device of Petersen would operate equally well with the depression being located in the center as opposed to the two side regions.

### **Allowable Subject Matter**

6. Claims 1-15 are allowed.

### **Response to Arguments**

7. Applicant's arguments with respect to claims 16-22 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Leslie J. Evanisko/*  
Leslie J. Evanisko  
Primary Examiner  
Art Unit 2854

lje  
January 19, 2008